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Attorneys for Plaintiff, Karl Storz
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**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

KARL STORZ ENDOSCOPY-AMERICA,
INC.

Plaintiff,

v.

STRYKER CORPORATION, AND
STRYKER COMMUNICATIONS, INC.

Defendants.

Case No. C 14-00876 RS

**PLAINTIFF'S ANSWER TO
STRYKER CORPORATION'S AND
STRYKER COMMUNICATIONS,
INC.'S AMENDED
COUNTERCLAIMS**

Hon. Richard Seeborg

1 Plaintiff Karl Storz Endoscopy-America, Inc. (“KSEA”), through its counsel, hereby
2 answers Stryker Corporation and Stryker Communications, Inc.’s (collectively “Stryker”)
3 Counterclaims included in Stryker’s First Amended Answer and Counterclaims as follows:

4 **PARTIES**

- 5 1. KSEA admits the allegations in paragraph 1.
6 2. KSEA admits the allegations in paragraph 2.
7 3. KSEA admits the allegations in paragraph 3.

8 **JURISDICTION AND VENUE**

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10 4. KSEA makes no answer to the allegations in paragraph 4 to the extent those allegations
11 state legal conclusions rather than assertions of fact. To the extent a response is required; KSEA
12 admits that Stryker’s Counterclaims purport to seek declaratory judgment of noninfringement, patent
13 invalidity, and unenforceability arising under the Patent Laws of the United States, Title 35 of the
14 United States Code. KSEA further admits that some of Stryker’s Counterclaims purport to seek
15 relief under the laws of the State of California, but that, to KSEA’s understanding, such
16 Counterclaims were dismissed by the Court’s October 3, 2014 Order Granting Motions to Strike and
17 to Dismiss With Leave to Amend (Doc. 93) (“Order”).

18
19 5. KSEA admits that this Court has subject matter jurisdiction over Stryker’s federal
20 counterclaims pursuant to 28 U.S.C. §§ 1331, 1338(a), 2201, and 2202.

21 6. KSEA admits that the venue is appropriate in this District. Except as expressly
22 admitted, KSEA denies all other allegations set forth in paragraph 6.

23 **The Prior Litigation**

24 7. KSEA admits that KSEA sued Stryker in the Western District of Tennessee in
25 2007, which suit was transferred to the Northern District of California in 2008 (“the Previous
26 Suit”). KSEA further admits that KSEA and Stryker settled that lawsuit in 2012 by entering into
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1 a Settlement Agreement (“the Agreement”). Except as expressly admitted, KSEA denies all
 2 other allegations set forth in paragraph 7.

3 8. KSEA admits that Stryker paid KSEA for a license to the patents at issue in the
 4 Previous Suit. Except as expressly admitted, KSEA denies all other allegations set forth in
 5 paragraph 8.

6 9. KSEA denies the allegations in paragraph 9.

7
 8 10. KSEA admits that the ‘657 patent issued in November 2010 and the ‘420 patent
 9 issued in November 2011. KSEA admits that the ‘657 patent and the ‘420 patent issued before
 10 the parties entered into the Agreement. KSEA is without information to form a belief as to the
 11 remaining allegations in paragraph 10, and therefore denies the same.

12 **FIRST COUNTERCLAIM**

13 **(Declaration of Noninfringement, Invalidity, and Unenforceability of the ‘420 Patent)**

14 11. KSEA incorporates by reference its responses to the preceding allegations of
 15 paragraphs 1-10 as though set forth herein.

16
 17 12. KSEA admits the allegations in paragraph 12.

18 13. KSEA denies the allegations in paragraph 13.

19 14. KSEA denies the allegations in paragraph 14.

20 15. KSEA makes no answer to the allegations in paragraph 15 as they relate to claims
 21 that the Court has dismissed in the Order. To the extent an answer is required, KSEA denies the
 22 allegations.

23
 24 16. KSEA admits that a justiciable controversy exists between the Parties as to
 25 infringement and validity of the ‘420 patent. Except as expressly admitted, KSEA denies all
 26 other allegations set forth in paragraph 16.

27 17. KSEA denies the allegations in paragraph 17.

1 18. KSEA denies the allegations in paragraph 18.

2 19. KSEA denies the allegations in paragraph 19.

3 **SECOND COUNTERCLAIM**

4 **(Declaration of Noninfringement and Invalidity of the '310 Patent)**

5 20. KSEA incorporates by reference its responses to the preceding allegations of
6 paragraphs 1-19 as though set forth herein.

7 21. KSEA admits the allegations in paragraph 21.

8 22. KSEA denies the allegations in paragraph 22.

9 23. KSEA denies the allegations in paragraph 23.

10 24. KSEA admits that a justiciable controversy exists between the Parties as to
11 infringement and validity of the '310 patent. Except as expressly admitted, KSEA denies all
12 other allegations set forth in paragraph 24.

13 25. KSEA denies the allegations in paragraph 25.

14 26. KSEA denies the allegations in paragraph 26.

15 27. KSEA denies the allegations in paragraph 27.

16 **THIRD COUNTERCLAIM**

17 **(Declaration of Noninfringement and Invalidity of the '530 Patent)**

18 28. KSEA incorporates by reference its responses to the preceding allegations of
19 paragraphs 1-27 as though set forth herein.

20 29. KSEA admits the allegations in paragraph 29.

21 30. KSEA denies the allegations in paragraph 30.

22 31. KSEA denies the allegations in paragraph 31.

23 32. KSEA admits that a justiciable controversy exists between the Parties as to
24 infringement and validity of the '530 patent. Except as expressly admitted, KSEA denies all
25 other allegations set forth in paragraph 32.

1 other allegations set forth in paragraph 32.

2 33. KSEA denies the allegations in paragraph 33.

3 34. KSEA denies the allegations in paragraph 34.

4 35. KSEA denies the allegations in paragraph 35.

5 **FOURTH COUNTERCLAIM**

6 **(Declaration of Noninfringement, Invalidity, and Unenforceability of the '657 Patent)**

7 36. KSEA incorporates by reference its responses to the preceding allegations of
8 paragraphs 1-35 as though set forth herein.
9

10 37. KSEA admits the allegations in paragraph 37.

11 38. KSEA denies the allegations in paragraph 38.

12 39. KSEA denies the allegations in paragraph 39.

13 40. KSEA makes no answer to the allegations in paragraph 40 as they relate to claims
14 that the Court has dismissed in the Order. To the extent an answer is required, KSEA denies the
15 allegations.
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17 41. KSEA admits that a justiciable controversy exists between the Parties as to
18 infringement and validity of the '657 patent. Except as expressly admitted, KSEA denies all
19 other allegations set forth in paragraph 41.

20 42. KSEA denies the allegations in paragraph 42.

21 43. KSEA denies the allegations in paragraph 43.

22 44. KSEA denies the allegations in paragraph 44.

23 **FIFTH COUNTERCLAIM**

24 **(Declaration of Noninfringement, Invalidity, and Unenforceability of the '821 Patent)**

25 45. KSEA incorporates by reference its responses to the preceding allegations of
26 paragraphs 1-44 as though set forth herein.
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EIGHTH COUNTERCLAIM

(Fraud)

68. – 74. KSEA makes no answer to the allegations in paragraphs 68-74 as they relate to a counterclaim that the Court has dismissed in the Order. To the extent an answer is required, KSEA denies the allegations.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment as follows:

- A. That Stryker's Amended Counterclaims be dismissed with prejudice;
- B. Adjudging that the '420, '310, '530, '657, and '821 patents are not invalid;
- C. Awarding Plaintiff all relief as set forth and prayed for in Plaintiff's Amended Complaint for Patent Infringement; and
- D. Awarding Plaintiff such other and further relief as this Court may deem just and proper.

Respectfully submitted,

Dated: October 17, 2014

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